

Senator INHOFE. And as far as terrorists are concerned, they would not be under this? General SCHWARZKOPF. Of course not.

Senator INHOFE. Like any treaty, we have to give some things up, and in this case, of course we do and there are a couple of things that I'd like to [explore]—the interpretation from the White House changed—they said that if the Chemical Weapons Convention were agreed to, that it would affect such things as riot control agents like tear gas in search-and-rescue operations and circumstances like we faced on Somalia—where they were using women and children at that time as shields. Do you agree that we should be restricted from using such things as tear gas?

General SCHWARZKOPF. I don't believe that is the case but I will confess to you that I have not read every single detail of that Convention so, therefore, I really can't give you an expert opinion. I think you could get a better opinion here.

Secretary WHITE. I am going to hesitate to give a definitive answer because there has been, in the administration, a very precise and careful discussion about what exactly, and in what situations, this would apply and when this wouldn't apply. . . .

Senator INHOFE. Do you think it wise to share with countries like Iran our most advanced chemical defensive equipment and technologies?

General SCHWARZKOPF. Our defensive capabilities?

Senator INHOFE. Yes.

General SCHWARZKOPF. Absolutely not.

Senator INHOFE. Well, I'm talking about sharing our advanced chemical defensive equipment and technologies, which I believe under Article X [they] would be allow[ed] to [get]. Do you disagree?

General SCHWARZKOPF. As I said Senator, I'm not familiar with all the details—I—you know, a country, particularly like Iran, I think we should share as little as possible with them in the way of our military capabilities.

[From the Wall Street Journal, Feb. 19, 1997]  
A DANGEROUS TREATY

Among the many good reasons why the Senate should not ratify the Chemical Weapons Convention is a substance known as A-232. This highly lethal nerve agent was concocted by a Russian scientific team precisely for the purpose of circumventing the terms of the CWC, which both the U.S. and Russia have signed but not yet ratified. A-232 would escape scrutiny under the treaty because it is made from agricultural and industrial chemicals that aren't deadly until they are mixed and therefore don't appear on the CWC's schedule of banned chemicals.

The world has known about A-232 since the May 1994 publication on this page of an article by a Russian scientist, who warned how his colleagues were attempting to camouflage their true mission. It is now the subject of a classified Pentagon paper, reported in the Washington Times earlier this month, on the eve of what is shaping up to be an escalation of the battle joined in September over ratification of the Chemical Weapons Convention.

The Administration was forced to sound the retreat then, pulling the treaty from consideration when it became clear that the Senate was preparing to vote it down. Now it's trying again, this time in full cry about the urgency for U.S. ratification before April 29, the date it goes into effect. For now, Senator Jesse Helms has kept the treaty tied up in the Foreign Relations Committee, making the sensible argument that the new Senate ought first to focus on matters of higher priority then ramrodding through a controversial treaty that merits careful deliberation.

The Administration, meanwhile, is mounting a full-court press, with the President offering a plea for ratification in his State of the Union address "so that at last we can begin to outlaw poison gas from the earth." This is an admirable sentiment—who isn't against marking the world safe from the horrors of poison gas?—but it's far from the reality. In fact, ratification would more likely bring the opposite results.

Article XI is one of the key danger areas. It would obligate U.S. companies to provide fellow signatories with full access to their latest chemical technologies, notwithstanding American trade or foreign policy. One country delighted at the prospect of upgrading its chemical industry is China, which, upon signing the CWC, issued a declaration saying, "All export controls inconsistent with the Convention should be abolished." No doubt Cuba and Iran, to name two other signatories, share the same sentiment. That Russian team that came up with A-232 no doubt could accomplish much more with the help of the most up-to-date technology from the U.S.

Verification is an insurmountable problem, and no one—not even the treaty's most ardent supporters—will promise that the treaty can be enforced. In the Administration's obfuscating phrase, the CWC can be "effectively verified." Yet if chemical weapons are easy to hide, as A-232 proves, they are also easy to make. The sarin used in the poison-gas attack on the Tokyo subway was created not in a fancy lab but in a small, ordinary room used by Aum Shinri Kyo's amateur chemists. The treaty provides for snap inspections of companies that make chemicals, not of religious cults that decide to cook up some sarin in the back office. The CWC wouldn't make a whit of difference.

Those snap inspections, by the way, could turn into a huge burden on American businesses, which would have to fork out millions of dollars in compliance costs (through the biggest companies no doubt would watch the heaviest burden fall on their smaller competitors).

More than 65 countries have already ratified the CWC, including most U.S. allies. But somehow we don't think the world is more secure with Australia and Hungary committed to ridding the world of chemical weapons when such real threats as Libya, Iraq, Syria and North Korea won't have anything to do with the CWC. How can a treaty that professes to address the problem of chemical weapons be credible unless it addresses the threat from the very countries, such as Syria and Iraq, that have actually deployed these weapons?

With or without the CWC, the U.S. is already committed to destroying its chemical weapons by 2004. That doesn't mean the rest of the world shares any such commitment; what possible peaceful purpose does Russia have in the clandestine production of A-232? Instead of pushing a treaty that can't accomplish its impossible goals, the Administration would be better advised to use its clout, rather than that of some planned U.N.-style bureaucracy, in getting the Russians to stop making nerve gas.

It's hard to find a wholehearted advocate of the treaty. The gist of the messages from most of its so-called champions is that it's a poor deal, but it's the best on offer. But their cases have acknowledged so many caveats that it's hard to see how they've reached such optimistic conclusions. The biggest danger of ratification is that it would similarly lull the U.S. and other responsible nations into the false belief that they are taking effective action against the threat of chemical weapons. The case for this treaty strains belief too far.

Mr. INHOFE. I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHEMICAL WEAPONS CONVENTION

Mr. BINGAMAN. Mr. President, I want to add my voice to the statement that the Senator from North Dakota made a little earlier in the proceedings about the importance of us getting on to a vote on the Chemical Weapons Convention. I believe very firmly that this is an issue which has been hanging around the Senate for too long. We have had many—in fact, years of consideration. We have had, I believe, 14 hearings now on the Chemical Weapons Convention.

The convention was supported, of course, by the previous administration. President Bush signed the agreement. We need now in this administration, the second Clinton administration, to go ahead and ratify it. There is an important date coming up which is the 29th of April, which is the date by which we need to take action. Let me address that issue first, because I know the Senator from Oklahoma did speak to the fact that, in his opinion, April 29 was not a date of any consequence and it did not matter whether we did anything this month or not on the treaty. This is sort of a recent argument that has been made and one I think needs to be responded to.

A failure to ratify by April 29 will have significant adverse consequences for our security and for U.S. businesses as well. Our ability to oversee the first critical days and months of implementation of the treaty will be lost. We now have Americans who are heading up the various divisions that monitor the treaty's budget and security measures and industry inspections, and those individuals, those Americans who now are involved in that will be replaced by individuals from countries that have ratified the treaty if we do not take action by the 29th of April.

Moreover, Americans will not be able to be hired as inspectors with these international teams if we do not ratify the treaty. Hundreds of millions of dollars in sales of American chemical companies and many jobs in many of our States will be at risk as a result of mandatory trade restrictions which were originally designed to pressure rogue states to join in the treaty. Those will be applied to us, Mr. President, if we do not go ahead and vote and ratify this treaty.

Failure to ratify, of course, relegates us to the so-called international pariahs that we give a lot of speeches about here on the Senate floor, countries like Libya and North Korea. We would be squandering U.S. international leadership in the fight against chemical

weapons and other weapons of mass destruction.

There have been many speeches given on the floor and by our President about how the United States, at this particular point in history, is the indispensable Nation. We are the one remaining superpower in the world, both militarily and economically and, as such, we have a particular responsibility to lead. Our failure to take action on this treaty on the Senate floor is an abrogation or default of that responsibility and one I think that I do not want to be any party to.

Another issue that has been raised, which I think needs to be addressed, is this issue which involves the question of whether or not the Chemical Weapons Convention could be interpreted as providing rogue states with the ability to acquire advanced U.S. technologies if we enter into this treaty. The issue was raised at the Armed Services Committee hearing that we had a couple of weeks ago. In fact, the Senator from Oklahoma was there and requested that we get some kind of statement from our Department of Defense in writing about their view of this.

Mr. President, I ask unanimous consent that a letter dated April 2 to Senator ROBERT SMITH and signed by Franklin Miller, who is the Acting Assistant Secretary of Defense for International Security Policy be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,  
DEFENSE PENTAGON,  
Washington, DC, April 2, 1997.

Hon. ROBERT C. SMITH,  
Senate Dirken Office Building,  
Washington, DC.

DEAR SENATOR SMITH: During my 5 March 1997 testimony before the Subcommittee on Strategic Forces of the Senate Armed Services Committee, several questions were raised regarding the impact of the Chemical Weapons Convention on the ability of rogue nations to acquire advanced U.S. technologies and the impact of the Convention on U.S. industry. I am pleased to provide the Administration's official response on these matters.

Article X: Assistance and Protection Against Chemical Weapons. One concern expressed during the hearing was whether Article X of the CWC might force us to share with nations like Iran our most advanced chemical defense technologies and equipment. I am pleased to reconfirm that Article X, which establishes procedures for State Party requests and possible responses to requests for assistance against chemical weapons, does not require the U.S. to share its advanced chemical weapons defenses and defensive technologies with countries such as Iran. Assistance is defined in the treaty as including items ranging from protective equipment to medical antidotes and treatments.

States Parties obligations under Article X may be met in one of three ways—by contributing to the voluntary fund (managed by the Organization); by concluding agreements with the Organization concerning the procurement, on demand, of specific types of assistance; or by declaring (within 180 days after the CWC's entry-into-force) the kind of assistance it might provide in response to an

appeal by the Organization. To meet its obligations under Article X therefore, the U.S. can choose from a variety of options and forms of assistance none of which require sharing our most advanced chemical defense or equipment.

Senator Inhofe raised a particular concern regarding Paragraph 3 of Article X. This paragraph states that "Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning the means of protection against chemical weapons." The inclusion of the words "facilitate" and "possible" underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention.

A specific concern also was raised regarding whether paragraph 5 of Article X would require the release of advanced and classified information about defensive capabilities and technologies. Paragraph 5 requires the international Technical Secretariat that administers the Convention to establish and maintain "for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties." As stated in the Article-by-Article Analysis submitted to the Senate on November 23, 1993, "freely available" means "from open public sources." Further, the CWC imposes no obligation on states parties to contribute to this database. Hence, the provision will not require the release of classified or otherwise sensitive information about U.S. chemical defenses.

Article XI: Economic and Technological Development. A second area of concern raised in the hearing was whether Article XI of the CWC, which relates to cooperation in the field of chemical activities for purposes not prohibited by the CWC, might force our industry to share dual-use technologies and manufacturing secrets with other nations. Article XI does not require private businesses to release such proprietary or otherwise confidential business information, nor does it require the U.S. Government to force private businesses to undertake such actions.

Access to Information During Inspections. A final area of concern raised during the hearing was whether the CWC might permit nations, such as Iran, to have access to some of our most critical technologies and manufacturing secrets during inspections. In this context, a question was raised as to whether the CWC required modification to preclude rogue nations from getting access to our technologies during inspections.

The CWC will not provide nations, such as Iran, with access to our most critical technologies and manufacturing secrets. The CWC, which was written with the help of U.S. chemical industry representatives, already contains important protections for industry, including provisions relating to routine and challenge inspections that were designed to protect against the loss of confidential business information.

The Convention stipulates that States Parties have the right to prohibit inspectors of any nationality from conducting inspections within their territory or any other place under their jurisdiction or control. Additionally, in the case of challenge inspections, the Convention stipulates that the inspected State Party has the right to reject inclusion on the inspection team of an observer from the country requesting the challenge. The Convention stipulates that these teams are composed of international civil servants "who meet the highest standards of effi-

ciency, competence and integrity." If they violate their obligations to hold all information confidential they will be subject to severe penalties, including the possible loss of immunity from prosecution by the inspected State Party.

The Confidentiality Annex to the Convention provides further protection for confidential information at facilities undergoing inspections. Paragraph 13, for example, specifies that "States Parties may take such measures as they deem necessary to protect confidentiality, provided they fulfill their obligations to demonstrate compliance. . . ." Paragraph 16 requires "due regard . . . to the requirement of protecting confidential information," while paragraph 17 limits the information in the international inspectorate reports to "only . . . facts relevant to compliance."

With regard to the question of access, in neither routine inspections nor challenge inspections does the Convention require any facility to allow inspectors unlimited access. For routine inspections, the United States has the right to negotiate a facility agreement for each facility, which will define the degree of access that inspectors would have, including "specific and detailed arrangements with regard to the determination of those areas of the facility to which inspectors are granted access" (Paragraph 16 of Confidentiality Annex). This facility agreement would provide the facility with the opportunity to protect sensitive information. Moreover, since advance notice would be given for routine inspections, the facility would have ample time to prepare for the inspection.

In the case of challenge inspections, the CWC also provides for "managed access" that will be conducted in accordance with constitutional obligations with regard to proprietary rights or searches and seizures. Moreover, the facility that is challenged will participate in the negotiations on the degree of permissible access. While the U.S. and the facility shall make every reasonable effort to provide the inspection team an alternative means to satisfy the stated concerns about the facility's compliance, the facility is not obligated to allow inspectors to have unfettered access within the facility.

I hope this information clarifies the matters that were raised during the 5 March 1997 hearing. As I stated in my opening remarks, the Department of Defense firmly believes that the Chemical Weapons Convention is in the national security interests of the United States. We strongly support its prompt ratification by the United States and approval of its accompanying implementing legislation. If I may be of further assistance to you and to the members of your Subcommittee, please do not hesitate to contact me.

Sincerely,

FRANKLIN C. MILLER (Acting).

Mr. BINGAMAN. Mr. President, this letter goes into great detail about why there is no provision in the treaty and there is nothing in the treaty that our Department of Defense would interpret as putting an obligation on us to provide sensitive technologies to rogue states:

Senator Inhofe raised a particular concern regarding Paragraph 3 of Article X. This paragraph states that "Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning the means of protection against chemical weapons."

The letter goes on to say:

The inclusion of the words "facilitate" and "possible" underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention.

I think it is clear from this analysis that our own Department of Defense feels very comfortable with the provisions of this Chemical Weapons Convention. The overriding context that this convention is presented to us in has to be considered, Mr. President, whenever you are debating the chemical weapons treaty or the Chemical Weapons Convention.

Sometime over a decade ago, the United States made a decision to terminate the use of chemical weapons and, in fact, to destroy our stockpile of chemical weapons. President Reagan signed the law to do just that. In accordance with that, President Bush came along, after President Reagan, and went ahead and carried out that policy and entered into the Chemical Weapons Convention on behalf of the country and sent the treaty to the Senate for consideration. It has been languishing here ever since President Bush sent it here for consideration.

I think that we would have a very different debate and you would have a very different lineup of people on different sides of this issue—and, frankly, you would have many more people in opposition to this treaty—if, in fact, we had not made a decision and put in our own law a provision to renounce the use of chemical weapons. But we did. We made that decision. President Reagan signed that law.

And now for people to come to the floor and say, no, no, we are going to be putting ourselves at some kind of disadvantage if we enter into a treaty with 161 other countries which would subject them to the same kind of policy decision which we already made some decade ago, just has no logic to it.

Clearly, there are problems in verifying this treaty. There are problems in verifying any treaty. They are probably complicated when it comes to verifying a treaty to ban chemical weapons because it takes such a small amount of technology and such a small amount of space to produce chemical weapons. But that does not mean that we should just give up on any and all efforts to verify and any and all efforts to inspect.

I think Madeleine Albright, our Secretary of State, made the point very well in a statement she made yesterday where she said, just because there may be people—and there are people—who will continue to murder and pillage and sell drugs, does not mean we should not pass laws to prohibit that. We should pass those laws. We should do our very best to enforce those laws and implement them. That is true with chemical weapons as well.

There may be people—and there undoubtedly will be—some rogue states and some individual groups, terrorist

groups, that try to violate this treaty. All I can say is, we need to redouble our efforts to enforce the treaty once we ratify it. We need to work with other countries to gain their assistance in doing that enforcement.

Clearly, it is in the best interest of the people of this country that we take every action we possibly can to reduce the likelihood that chemical weapons will ever be used against Americans in future conflicts or in a nonconflict situation. Perhaps the biggest threat that we face is not in the use of chemical weapons in a conflict. The biggest threat may be the kind of an incident that occurred in Japan in a subway where a terrorist group decides that for some perverted reason they are going to engage in the use of chemical weapons. This treaty will help us to ferret out those kinds of incidents, those kinds of risks and to deal with them ahead of time. I think it is clearly in our best interest to do so.

Mr. President, let me just say that I have confidence that the Senate, if allowed to vote on this issue, will vote by the necessary supermajority to go ahead and pass the treaty and ratify the treaty. What we are up against now is an inability to get the treaty to the floor for a vote. And that, I think, is a very sad procedural circumstance that we have. We have a committee chair who has announced that he may or may not allow this issue to be reported from the committee so that the full Senate can express its will on the subject.

Mr. President, I hope very much that my colleagues will join me in seeing to it that we do get this issue to the floor, and that we go ahead and vote on the treaty. If a Senator wants to vote against the Chemical Weapons Convention and go home and explain to his or her constituents why they voted against the Chemical Weapons Convention, then fine. That is the way the system is supposed to work.

But for us to deny Members the right to vote is really indefensible, in my view, on an issue of this importance. This is tremendously important. I have urged, as several Members know, the Democratic leader, and indicated to the majority leader that I thought it was irresponsible for the Senate to continue doing business as usual while this issue continues to languish in committee.

The deadline is approaching. This is time sensitive. We need to go ahead and get the issue to the floor and allow a good debate, allow amendments, and allow a vote on the Chemical Weapons Convention.

I think that needs to be our top priority this April. And we are still early enough in the month that we can bring this to the floor, debate it, vote on it, and let the Senate do its will. The American people have a right to expect that from us. And clearly we need to go ahead and follow that course of action.

I think for us to continue with discussions about: Well, it does not really

matter whether we sign up now or sign up in June or maybe July or maybe this fall some time, that is not accurate, Mr. President. It does matter. And we will be giving up a leadership role that we should have on arms control issues. We will be giving up a leadership role we should have on the banning of chemical weapons. Clearly, I think that is contrary to the best interests of the people I represent and contrary to the best interests of the American people generally.

Mr. President, I urge the majority leader and my colleagues on both sides of the aisle to put aside other business, and bring this issue to the floor. Let us vote on it. Let us have a debate. Anyone who wants to offer an amendment should be able to do that. Anyone who wants to offer implementing legislation should be able to do that. The Senate should vote on it, and then get about other business. So I hope that is the course we follow.

Mr. President, I know there will be additional chances this afternoon and later on to debate this issue in more depth. I look forward to those. I believe very firmly that this is one of the most important issues this Congress, this 105th Congress, will address. I hope very much that we will clear the other procedural matters and the other substantive matters that are on the agenda and get on to a vote on the Chemical Weapons Convention.

Mr. President, with that I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MEDICARE REFORM

Mr. WYDEN. Mr. President, as I indicated yesterday, I intend to come to the Senate floor each day this week as part of an effort to build bipartisan support in the Senate for Medicare reform. It is very clear to me that there is a rare window of opportunity now for the Senate to act on this issue, a window, an opportunity I think would be a serious mistake to not exploit.

We know that the Federal deficit is a bit lower than was anticipated this year, in the vicinity of \$108 billion. We are seeing that there is a fairly benign economic environment. Certainly, there are still folks hurting in our country, but, overall, the economy has been positive. We know that we are a few years away from what I believe is sure to be a demographic earthquake, with many more older people in our country, and older people who need and deserve good quality health care.

Yesterday, I tried to outline what I thought were the central principles of comprehensive Medicare reform. Beginning today, Mr. President, I intend to